

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ALICE JOHNSON, individually and as  
parent, natural guardian, and next friend of  
A.S.; NORMA LEROY, individually and as  
parent, natural guardian, and next friend of  
M.L.; A.S., minor children; and M.L., minor  
children;

Plaintiffs,

vs.

CODY-KILGORE UNIFIED SCHOOL  
DISTRICT, a Political Subdivision; ADAM  
LAMBERT, in his individual capacity; and  
MARVANNE LOGTERMAN, in her  
individual capacity;

Defendants.

4:21CV3103

FIFTH AMENDED  
CASE PROGRESSION ORDER

This matter is before the Court on the Jointly Stipulated Motion to Modify Final Schedule for Progression of Case ([Filing No. 66](#)). After review of the motion, and for good cause shown,

**IT IS ORDERED** that the Jointly Stipulated Motion to Modify Final Schedule for Progression of Case ([Filing No. 66](#)) is granted, and the third amended case progression order is amended as follows:

- 1) The deadline for defendants to identify expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), is **April 14, 2023**.
- 2) The deadlines for completing expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiffs: **May 12, 2023**

For the defendants: **June 12, 2023**

- 3) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **July 31, 2023**.
- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **August 7, 2023**.

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<sup>1</sup> While treating medical and mental health care providers are generally not considered “specially retained experts,” not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert’s treatment records and reports must be separately and timely disclosed.

- 5) The deadline for completing written discovery under Rules 33, 34, 36, and 45 of the Federal Rules of Civil Procedure is **August 16, 2023**. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by **September 21, 2023**.

**Note:** A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge on or before the motion to compel deadline to set a conference to discuss the parties' dispute, and after being granted leave to do so by the Court.

- 6) The planning conference scheduled for August 17, 2023, is cancelled. The trial and pretrial conference will not be set at this time. A planning conference to discuss case progression, dispositive motions, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **September 27, 2023**, at **10:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 7) The deadline for filing motions to dismiss and motions for summary judgment is **October 25, 2023**.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 9<sup>th</sup> day of March, 2023.

BY THE COURT:

s/Michael D. Nelson  
United States Magistrate Judge